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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
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10 DANIEL ANTHONY NIX,

11 Plaintiff,

12 v.

13 UNITED STATES OF AMERICA,
14 ROBERT S LASNIK, RICARDO S
15 MARTINEZ, SEUNGJAE LEE,
16 MARK PARRENT, ANNETTE
HAYES, DOES 1 through 100,

17 Defendants.

Case No. 2:18-CV-01147-RHW

**ORDER GRANTING MOTION TO
DISMISS**

18 Before the Court are Defendants' Motion to Dismiss and Motion for
19 Summary Judgment, ECF No. 26, Plaintiff's Response and Motion to Strike, ECF
20 No. 29, and Defendants' Reply, ECF No. 28. The Court has reviewed the filings
21 and the docket as a whole and is fully informed. For the reasons discussed, the
22 Court grants Defendants' motion to dismiss.

23 **I. Background**

24 On September 10, 2018, Plaintiff Anthony Nix filed a thirty-six page
25 Amended Complaint¹ against Defendants Robert S. Lasnik, Ricardo S. Martinez,
26

27 ¹ On August 6, 2018, Plaintiff filed his original Complaint in this matter. ECF No. 1. On August
28 27, 2018, the Court issued an Order Dismissing Plaintiff's Complaint Without Prejudice. ECF
No. 8. Plaintiff was given leave to amend his complaint within 14 days. *Id.* The original

1 Seungjae Lee, Mark Parrent and Annette Hayes in their individual capacities, the
2 United States as a federal corporation, and Does 1 through 100. ECF No. 9.

3 Plaintiff brings six *Bivens* claims against Defendants for multiple violations
4 of his Constitutional rights and seeks redress and lawful aid and protection from
5 the actions of the Defendants. *Id.* at 1. In his claims for relief, Plaintiff seeks both
6 injunctive relief and damages.² He accuses Defendants of clear misrepresentations
7 of fact and law, conspiracy, extortion and corrupt practices, threat of physical and
8 emotional harm, coercion, fraudulent omissions, and lack of fair and equal
9 disclosure of exculpatory facts. *Id.* at 2. Plaintiff further accuses Defendants of
10 misappropriating numerous financial instruments for their own benefit. ECF No. 9
11 at 12.

12 Plaintiff's claims against Defendants arise from his underlying criminal case
13 in which he was charged with 25 counts of various tax and financial violations. *See*
14 *United States v. Daniel Nix*, 2:17-cr-00105-RSL-1 (W.D. WA.). Defendant Lasnik
15 was the presiding judge in Plaintiff's criminal case. Defendant Martinez is the
16 Chief District Court Judge in the Western District of Washington. Defendant
17 Hayes is the United States Attorney for the Western District of Washington.
18 Defendants Parrent and Lee were the Assistant United States Attorneys who
19 prosecuted Plaintiff in his criminal case.

20
21 _____
22 Complaint was superseded and replaced by the September 10, 2018 Amended Complaint. ECF
23 No. 9.

24 ² In his first claim, Plaintiff seeks permanent injunctive relief and a temporary restraining order
25 against Defendants, ECF No. 9 at 26; in his second claim he seeks permanent injunctive relief
26 and damages in the amount of \$50,000,000, *Id.* at 27; in his third claim he seeks relief for
27 emotional distress, immediate and permanent injunctive relief and \$50,000,000 in damages, *Id.*
28 at 29; in his fourth claim he seeks an order compelling full disclosure of all financial records in
the custody and control of Defendants, expungement of all legal actions that involve Plaintiff,
and return of all of his stolen equity, *Id.* at 31; in his fifth claim he seeks relief for Intentional
Infliction of Emotional Distress by Defendants in the form of \$50,000,000 in damages, *Id.* at 34;
in his sixth claim he seeks an order disgorging all property held by Defendants in full with no
encumbrances, *Id.* at 34.

ORDER GRANTING MOTION TO DISMISS * 2

1 Defendants are moving for dismissal of Plaintiff's claims pursuant to
2 Federal Rules of Civil Procedure ("F.R.C.P.") 12(b)(1), lack of subject matter
3 jurisdiction, and 12(b)(6), failure to state a claim. ECF No. 26. Defendants
4 Martinez and Lasnik move for dismissal on the grounds of judicial immunity. *Id.*
5 Defendants Hayes, Parrent, and Lee move for dismissal on the grounds of
6 prosecutorial immunity. *Id.* Defendant United States moves for dismissal pursuant
7 to sovereign immunity. *Id.* Defendants also claim that the Court should dismiss the
8 claims against them pursuant to the *Heck* Doctrine. *Id.*

9 II. Legal Standard

10 A. Plaintiff's *Bivens* claims against Defendants.

11 Plaintiff brings six *Bivens* claims against Defendants Martinez, Lasnik,
12 Hayes, Parrent, and Lee in their individual capacities. Under 42 U.S.C. § 1983, a
13 plaintiff may bring a claim for damages against a state official who has acted under
14 the color of law to deprive plaintiff of his right that is secured by the Constitution
15 or federal statute. *Gibson v. United States*, 781 F.2d 1334, 1338 (9th Cir. 1986).
16 "*Bivens* [*v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403
17 U.S. 388 (1971)] established that compensable injury to a constitutionally
18 protected interest [by federal officials] could be vindicated by a suit for damages
19 invoking the general federal-question jurisdiction of the federal courts." *Butz v.*
20 *Economou*, 438 U.S. 478, 486 (1978). *Bivens* actions are identical to those brought
21 under § 1983, save for the replacement of a state actor under § 1983 for a federal
22 actor under *Bivens*. *Van Strum v. Lawn*, 940 F.2d 406, 409 (9th Cir. 1991).

23 "[A] *Bivens* action will not lie when Congress has created 'comprehensive
24 procedural and substantive provisions giving meaningful remedies against the
25 United States.'" *Janacki Logging Co. v. Mateer*, 42 F.3d 561, 564 (9th Cir. 1994)
26 (quoting *Bush v. Lucas*, 362 U.S. 367, 368 (1983). Moreover, a *Bivens* action will
27 not lie against the United States, agencies of the United States, or federal agents in
28 their official capacity. See *F.D.I.C. v. Meyer*, 510 U.S. 471, 486 (1994); *Consejo*

1 *de Desarrollo Economico de Mexicali, A.C. v. United States*, 482 F.3d 1157, 1173
2 (9th Cir. 2007); *Morgan v. United States*, 323 F.3d 776 780 n.3 (9th Cir. 2003). As
3 such, a *Bivens* action may be brought against a defendant in his individual capacity
4 only, and not in his official capacity. *Consejo de Desarrollo Economico de*
5 *Mexicali, A.C.*, 482 F.3d at 1173. “Even circumstances in which a *Bivens* remedy
6 is generally available, an action under *Bivens* will be defeated if the defendant is
7 immune from suit.” *Hui v. Castaneda*, 559 U.S. 799, 807 (2010).

8 **B. Defendant’s motion to dismiss.**

9 **1. Subject Matter Jurisdiction – Fed. R. Civ. P. 12(b)(1).**

10 F.R.C.P. 12(b)(1) allows litigants to seek the dismissal of an action from
11 federal court for lack of subject matter jurisdiction. A federal court has jurisdiction
12 over an action that either arises under federal law, or when there is complete
13 diversity of citizenship between the parties and the amount in controversy exceeds
14 \$75,000. *See* 28 U.S.C. 1331, 1332(a). When subject matter jurisdiction is
15 challenged, the plaintiff has the burden of proving jurisdiction in order to survive
16 the motion. *Stock West, Inc. v. Confederated Tribes*, 873 F.2d 1221, 1225 (9th Cir.
17 1989). “A plaintiff suing in federal court must show in his pleading, affirmatively
18 and distinctly, the existence of whatever is essential to federal jurisdiction, and, if
19 he does not do so, the court... must dismiss the case, unless the defect be corrected
20 by amendment.” *Smith v. McCullough*, 270 U.S. 456, 459 (1926).

21 **2. Failure to State a Claim – Fed. R. Civ. P. 12(b)(6).**

22 A motion to dismiss made pursuant to F.R.C.P. 12(b)(6) tests the sufficiency
23 of a party’s claim for relief. *See* Fed. R. Civ. P. 12(b)(6) (a party may move to
24 dismiss a complaint for “failure to state a claim upon which relief can be
25 granted.”). Under F.R.C.P. 12(b)(6), dismissal is appropriate if, taking all factual
26 allegations as true, a party fails to state a plausible claim for relief on the face of
27 the complaint. *Id.*; *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556-57 (2007);
28 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A complaint is plausible when the

1 factual content “allows the court to draw the reasonable inference that the
2 defendant is liable for the misconduct alleged. *Iqbal*, 556 U.S. 678; (citing
3 *Twombly*, 550 U.S. at 556).

4 When considering a motion to dismiss pursuant to 12(b)(6), “all well-
5 pleaded allegations of material fact are taken as true and construed in a light most
6 favorable to the non-moving party.” *Wylar v. Summit P’ship v. Turner Broad Sys.,*
7 *Inc.*, 135 F.3d 658, 661 (9th Cir. 1998). Courts should not grant a motion to
8 dismiss for failure to state a claim “unless it appears beyond a doubt that the
9 plaintiff can prove no set of facts in support of his claim which would entitle him
10 to relief.” *Love v. United States*, 915 F.2d 1242, 1245 (9th Cir. 1990). “[D]ismissal
11 without leave to amend is improper unless it is clear that the complaint could not
12 have been saved by amendment.” *Jackson v. Carey*, 353 F.3d 750, 758 (9th Cir.
13 2003). The Ninth Circuit has held that, “in dismissals for failure to state a claim, a
14 district court should grant leave to amend even if no request to amend the pleading
15 was made, unless it determines the pleading could not possibly be cured by the
16 allegation of other facts.” *Cooks, Perkiss, and Liehe, Inc. v. N. Cal. Collection*
17 *Serv., Inc.*, 911 F.2d 242, 247 (9th Cir. 1990).

18 As a preliminary matter, Defendants attached a copy of the docket from
19 *United States v. Daniel Nix*, 2:17-cr-00105-RSL-1 (W.D. WA.) to their Motion to
20 Dismiss and requested that the Court take judicial notice of the proceedings in
21 Plaintiff’s underlying criminal case. ECF No. 26 at 2-3. Although district courts
22 may not consider any material beyond the pleadings when ruling on an F.R.C.P.
23 12(b)(6) motion, they may take judicial notice of documents referenced in the
24 complaint, pleadings from other relevant proceedings, as well as matters in the
25 public record, without converting the motion to dismiss into one for summary
26 judgment. *Intri-Plex Techs., Inc. v. Crest Grp., Inc.*, 499 F.3d 1048, 1052 (9th Cir.
27 2007).). The Ninth Circuit has “extended the doctrine of incorporation by
28 reference to consider documents in situations where the complaint necessarily

1 relies upon a document or the contents of the document are alleged in the
2 complaint, the document's authenticity is not in question and there are no disputed
3 issues as to the document's relevance." *Coto Settlement v. Eisenburg*, 593 F.3d
4 1031, 1038 (9th Cir. 2010).

5 In this case, the docket sheet for *United States v. Nix* is a matter of public
6 record and it is necessarily relied upon by the Amended Complaint. Therefore, the
7 Court grants Defendants' request for judicial notice of the proceedings in
8 Plaintiff's underlying criminal case and conviction.

9 III. Discussion

10 A. Defendant United States has not waived sovereign immunity.

11 As a sovereign, the United States "is immune from suit unless it has
12 expressly waived such immunity and consented to be sued." *Dunn & Black P.S. v.*
13 *United States*, 492 F.3d 1084, 1087 (9th Cir. 2007) (quoting *Gilbert v. DaGrossa*,
14 756 F.2d 1455, 1458 (9th Cir. 1985). "The doctrine of sovereign immunity ... 'is
15 an important limitation on the subject matter jurisdiction of federal courts.'" *Id.* at
16 1087 (quoting *Vacek v. U.S. Postal Serv.*, 447 F.3d 1248, 1250 (9th Cir. 2006).
17 Federal district courts are courts of limited jurisdiction that may not grant relief
18 absent a constitutional or valid statutory grant of jurisdiction. *A-Z Int'l v. Phillips*,
19 323 F.3d 1141, 1145 (9th Cir. 2003). As such, a federal court is to presume that a
20 cause lies outside its limited jurisdiction, and the burden of establishing the
21 contrary rests upon the party asserting jurisdiction. *Kokkonen v. Guardian Life Ins.*
22 *Co. of Am.*, 511 U.S. 375, 377 (1994) (internal citation omitted). A suit is against
23 the sovereign "if the judgment sought would expend itself on the public treasury or
24 domain, interfere with public administration, or if the effect of the judgment would
25 be 'to restrain the Government from acting, or compel it to act.'" *Dugan v. Rank*,
26 372 U.S. 609, 620 (1963) (internal citations omitted). Where a suit has not been
27 consented to by the United States, dismissal of the action is required. *Hutchinson v.*
28 *United States*, 677 F.2d 1322, 1327 (9th Cir. 1982).

1 In his Amended Complaint, Plaintiff lists the United States as a defendant to
2 each of his six claims, however, he fails to set forth with specificity any plausible
3 claims for relief against the United States. ECF No. 9. Plaintiff asserts that
4 Defendant United States committed fraud against him and violated his First
5 Amendment rights. *Id.* at 29. However, Plaintiff fails to validate these ambiguous
6 claims. The Amended Complaint is devoid of any detailed assertions of the actual
7 violations Defendant United States committed against Plaintiff as well as any facts
8 as to how they occurred. Plaintiff has also failed to show that Defendant United
9 States has waived its sovereign immunity defense to the claims against it. As such,
10 the Court lacks jurisdiction over Plaintiff's claims against Defendant United States.
11 *Hutchinson*, 677 F.2d at 1327. Further amendment of the complaint with respect to
12 Defendant United States would be futile, therefore, the Amended Complaint will
13 be dismissed without leave to amend with regard to Defendant United States.
14 *Jackson*, 353 F.3d at 758.

15 **B. Defendants Martinez and Lasnik are entitled to absolute judicial**
16 **immunity.**

17 Under the doctrine of absolute judicial immunity, a judge is not liable for
18 monetary damages for acts performed in the exercise of his judicial functions.
19 *Stump v. Sparkman*, 435 U.S. 349, 356 (1978); *Ashelman v. Pope*, 793 F.2d 1072,
20 1075 (9th Cir. 1986). An act is "judicial" when it is a function normally performed
21 by a judge and the parties dealt with the judge in his judicial capacity. *Sparkman*,
22 435 U.S. at 362; *Crooks v. Maynard*, 913 F.2d 699, 700 (9th Cir. 1990). A judge
23 does not forfeit the benefit of judicial immunity because his action was in error,
24 was done maliciously, or was in excess of the judge's authority. *Sparkman*, 435
25 U.S. at 356. The scope of a judge's jurisdiction must be broadly construed. *Id.*
26 "To determine if a given action is judicial..., courts [should] focus on whether: (1)
27 the precise act is a judicial function; (2) the events occurred in the judge's
28 chambers; (3) the controversy centered around a case then pending before the

1 judge; (4) the events at issue arose directly and immediately out of a confrontation
2 with the judge in his or her official capacity.” *Ashelman*, 793 F.2d at 1075-76.

3 The doctrine of absolute immunity also protects judges from allegations of
4 conspiracy. *Id.* at 1075 (While a conspiracy to predetermine the outcome of
5 judicial proceedings is clearly improper, it does not pierce the immunity extended
6 to judges and prosecutors.). A plaintiff must state specific facts, not mere
7 conclusory statements, to support the existence of an alleged conspiracy. *Burns v.*
8 *County of King*, 883 F.2d 819, 821 (9th Cir. 1989). Claims based on vague and
9 conclusory allegations, which fail to specify each defendant’s role in the alleged
10 conspiracy, are subject to dismissal. *Pena v. Gardner*, 976 F.2d 469, 471 (9th Cir.
11 1992). Plaintiff’s complaint is completely devoid of any factual allegations that
12 Defendants had an agreement to conspire to violate his constitutional rights.

13 Plaintiff’s claims that Defendant Lasnik obstructed judicial proceedings
14 against Plaintiff for his own financial gain and benefit. ECF No. 9 at 19. Plaintiff
15 further claims that Defendant Lasnik violated Plaintiff’s free exercise of religious
16 beliefs through his aggressive disparagement of Plaintiff’s beliefs, denied
17 Plaintiff’s right to discover exculpatory evidence, violated Plaintiff’s First
18 Amendment free speech rights, and violated Plaintiff’s rights to a due process, a
19 speedy trial, a fair trial and competent counsel. *Id.* at 20. Plaintiff claims that
20 Defendant Martinez violated these rights as well by refusing to disqualify
21 Defendant Lasnik as the presiding judge in Plaintiff’s criminal case. Defendants
22 Lasnik and Martinez assert that they are protected by absolute judicial immunity
23 from Plaintiff’s claims against them. ECF No. 26 at 6-10.

24 Plaintiff has failed to produce evidence or facts which would pierce the
25 shield of absolute judicial immunity. Plaintiff’s allegations clearly show that he
26 dealt with Judge Lasnik and Chief Judge Martinez in their judicial capacity in
27 hearings and through means of motions and orders. The Amended Complaint is
28 void of any facts from which a plausible inference could be drawn that Judge

1 Lasnik or Judge Martinez acted in “clear absence of all jurisdiction.” *Sparkman*,
2 435 U.S. at 357. Plaintiff’s assertions are “based on vague and conclusory
3 allegations” and fail to identify either of the judicial defendant’s roles in the
4 alleged conspiracy. *Burns*, 883 F.2d at 821. The Court is compelled to dismiss
5 without leave to amend, Plaintiff’s claims against Defendants Lasnik and Martinez
6 based on the doctrine of absolute judicial immunity. *Jackson*, 353 F.3d at 758.

7 **C. Defendants Hayes, Parrent, and Lee are entitled to absolute**
8 **prosecutorial immunity.**

9 The prosecutors in this case, Hayes, Parrent, and Lee, are similarly entitled
10 to absolute immunity due to their status as prosecutors. Prosecutorial immunity
11 protects eligible government officials when they are acting pursuant to their
12 official role as advocate for the state, performing functions “intimately associated
13 with the judicial phase of the criminal process.” *Imbler v. Pachtman*, 424 U.S. 409,
14 429-30 (1976). Attorneys who prosecute cases on behalf of the Government are
15 absolutely immune from claims based on their participation in the judicial process
16 for the same reasons judges are immune. *Id.* at 422-23.

17 The following activities have been found to be intimately connected with
18 the judicial phase of the criminal process: seeking a grand jury indictment,
19 dismissing claims, deciding whether and when to prosecute (*Milstein v. Cooley*,
20 257 F.3d 1004, 1012 (9th Cir. 2001)); making statements that are alleged
21 misrepresentations and mischaracterizations during hearings, during discovery, and
22 in court papers (*Fry v. Melaragno*, 939 F.2d 832, 837-38 (9th Cir. 1991)); and
23 preparing a case for trial. *Milstein*, 257 F.3d at 1008). A prosecutor also enjoys
24 absolute immunity from a suit alleging that he maliciously initiated prosecution,
25 used perjured testimony at trial, and suppressed material evidence at trial. *Imbler*,
26 424 U.S. at 430.

27 Plaintiff claims that Defendants Hayes, Parrent, and Lee lied to the grand
28 jury and concealed exculpatory evidence. ECF No. 9 at 19. Plaintiff further claims

1 that the defendant prosecutors conspired with Defendant Lasnik to obfuscate
2 exculpatory evidence from grand jury and trial jury and misstated the law and
3 issued fraudulent jury instructions to tamper with jury verdict. *Id.* at 19.
4 Defendants Hayes, Parrent, and Lee claim that they are protected from Plaintiff's
5 claims by the shield of absolute prosecutorial immunity and the Court agrees.

6 Plaintiff has failed to prove that Defendants Hayes, Parrent, and Lee were
7 acting outside of the scope of their official prosecutorial duties. All of the asserted
8 actions by the prosecutor Defendants were taken in the course of their duties as
9 prosecutors in the criminal case against Plaintiff. *Imbler*, 424 U.S. at 429-30. Even
10 Plaintiff's allegations of conspiracy cannot invalidate Defendants' absolute
11 immunity defense. *Ashelman*, 793 F.2d at 1075-76. Because the actions alleged by
12 Plaintiff against Defendants Hayes, Parrent, and Lee all fall within the scope of
13 their prosecutorial duties they are absolutely immune from Plaintiff's claims for
14 relief and the Court is compelled to dismiss with prejudice all claims against
15 Defendants Hayes, Parrent, and Lee. *Cooks, Perkiss, and Liehe, Inc.*, 911 F.2d at
16 247.

17 **D. Claims stemming from Defendants' actions throughout Plaintiff's**
18 **underlying criminal case are barred by *Heck v. Humphrey*.**

19 A plaintiff's claim for damages is not cognizable under 42 U.S.C. § 1983 or
20 *Bivens* if a judgment in favor of the plaintiff would necessarily imply the invalidity
21 of his conviction or sentence, unless the plaintiff demonstrates that
22 the conviction or sentence has previously been reversed, expunged, or invalidated.
23 *Heck v. Humphrey*, 512 U.S. 477, 486 (1994); *see also Martin v. Sias*, 88 F.3d 774,
24 775 (9th Cir. 1996) (Applying the rationale of *Heck* to *Bivens* actions.). This bar
25 also extends to claims for declaratory relief. *Edwards v. Balisok*, 520 U.S. 641,
26 647-48 (1997). Therefore, any claims regarding a conspiracy to bring unfounded
27 criminal charges and convictions against Plaintiff may only be reviewed by this
28 Court if Plaintiff can demonstrate that his conviction or sentence "has been

1 reversed on direct appeal, expunged by executive order, declared invalid by a state
2 tribunal authorized to make such determination, or called into question by a federal
3 court's issuance of a writ of habeas corpus, 28 U.S.C. § 2254.” *Heck*, 512 U.S. at
4 486.

5 Because Plaintiff cannot show that his conviction in his underlying criminal
6 case, *United States v. Anthony Nix*, 2:17-cr-00105-RSL-1 (W.D. WA.), has been
7 reversed on appeal or called into question by the issuance of a writ of habeas
8 corpus, his claims relief regarding Defendants’ actions throughout the case must
9 be dismissed. *Heck*, 512 U.S. at 481–82. *Heck* bars a plaintiff from bringing a suit
10 for violation of Constitutional rights if a judgment in his favor would imply the
11 invalidity of his conviction or sentence. *Id.* at 487. It is clear that Plaintiff’s claims
12 against these Federal judges and prosecutors are premised on his belief that he was
13 wrongly prosecuted and convicted in his underlying criminal case. Grant of
14 Plaintiff’s claims for relief by this Court would most certainly invalidate Plaintiff’s
15 recent criminal conviction, as such, his claims are barred by *Heck*.

16 IV. Conclusion

17 The Court lacks subject matter jurisdiction over Plaintiff’s claims against
18 Defendant United States because, as explained, the United States is entitled to
19 sovereign immunity with respect to Plaintiff’s claims for relief. Plaintiff has failed
20 to state a claim for relief against Defendants Martinez and Lasnik that could
21 circumvent the absolute judicial immunity they possess. Plaintiff has also failed to
22 state a plausible claim for relief against Defendants Hayes, Parrent and Lee
23 because they are entitled to absolute prosecutorial immunity from Plaintiff’s
24 *Bivens* claims for damages. Plaintiff’s claims for relief associated with his criminal
25 case are barred by *Heck* because he has failed to show that his conviction has been
26 reversed on appeal or that he has been issued a writ of habeas corpus. For these
27 reasons, it is clear that no amendment of Plaintiff’s complaint against Defendants
28 Martinez, Lasnik, Hayes, Lee, Parrent, and United States could cure the

1 deficiencies of Plaintiff's claims and amendment would be futile. Because Plaintiff
2 has already been granted leave to amend his original complaint in this matter, the
3 Court finds it appropriate to dismiss with prejudice, all of Plaintiff's all claims in
4 the Amended Complaint against Defendants Martinez, Lasnik, Hayes, Parrent,
5 Lee, and United States for lack of subject matter jurisdiction pursuant to F.R.C.P.
6 12(b)(1), and for failure to state a claim upon which relief can be granted pursuant
7 to F.R.C.P. 12(b)(6).

8 Lastly, Plaintiff has failed to enlighten the Court with regard to Defendants
9 Does 1-100. Plaintiff references "unknown officers of the State of Washington"
10 once in the Amended Complaint, ECF No. 9 at 8, and only refers their actions
11 taken with regard to his criminal case. Plaintiff has failed to provide any
12 explanation as to why Does 1-100, including these "unknown Washington State
13 officers, would not be entitled the same immunities that protect the other
14 Defendants in this matter. Further, Plaintiff failed to list Does 1-100 on any of his
15 six claims as he did with the other six defendants in the matter. ECF No. 9 at 25-
16 35. As such, the Court dismisses with prejudice all claims against Does-100.

17 The Court finds good cause to **GRANT** Defendants' Motion to Dismiss,
18 ECF No. 26. For the reasons stated above, the Court **DISMISSES WITH**
19 **PREJUDICE** Plaintiff's Amended Complaint, ECF No. 9.

20 **Accordingly, IT IS HEREBY ORDERED:**

- 21 1. Defendants' Motion to Dismiss, **ECF No. 26**, is **GRANTED**.
- 22 2. This matter is **DISMISSED with prejudice and without leave to**
23 **amend**.
- 24 3. Defendants' request for judicial notice of the proceedings in
25 *United States v. Anthony Nix*, 2:17-cr-00105-RSL-1 (W.D. WA.), is
26 **GRANTED**.
- 27 4. Plaintiff's Motion to Strike, ECF No. 29, is **DENIED**.

IT IS SO ORDERED. The District Court Executive is directed to enter this Order, enter judgment of dismissal with prejudice, forward a copy to Plaintiff, and close the file.

DATED this 2nd day of January, 2019.

s/Robert H. Whaley
ROBERT H. WHALEY
Senior United States District Judge